

REMARKS

The Examiner objected to claims 6-13; rejected claims 1-5, 14, and 15 under 35 U.S.C. § 103(a). Claims 1-15 are in the case.

Rejection of Claims 1-5, 14, and 15 under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-5, 14, and 15 as being unpatentable over Miller et al. (U.S. Patent No. 6,834,073) (hereinafter “Miller”) in view of von der Embse (U.S. Patent No. 4,689,806). Applicants respectfully traverse.

With regard to claim 1, neither Miller nor von der Embse nor their combination teaches or suggests “means for generating a baseband signal under control of the controller.” The Examiner writes that this element is taught by Miller’s Radio Controller and Interface 9 (Figure 3A(1)) and conventional receiver (Figure 1; Column 3, lines 37-51). Applicants cannot agree because Miller’s baseband signal is produced from an incoming RF signal, not from a controller as recited in the claim language and as described in the specification. Applicants remind the Examiner that during examination, “when an element is claimed using language falling under the scope of 35 U.S.C. 112, 6th paragraph . . . *the specification must be consulted* to determine the structure, material, or acts corresponding to the function recited in the claim.” *In re Donaldson*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994), MPEP § 2111.01(I) (emphasis added). The specification clearly indicates that the claim language “under control of” signifies that the controller produces the baseband signal:

“The tracking generator has an internal vector modulation source that digitally modulates complex baseband data *from a controller*. . .” (Page 2, lines 16-18)

“[T]he modulation [is] directly *under the control of a controller*. . .” (Page 3, lines 23-24)

“Baseband I/Q data is passed *from the controller*. . .” (Page 4, line 24 - Page 5, line 1)

Furthermore, there is no indication that Miller’s conventional receiver (Miller’s prior art) and Radio Controller and Interface (an embodiment of Miller’s invention) are coupled in any way, thus the conventional receiver cannot “be under control of” the Radio Controller and Interface.

Additionally, neither Miller nor von der Embse nor their combination teaches or suggests “means for mixing . . . to produce a test signal.” The Examiner writes that Miller’s synchronization process (Column 9, lines 34-63) teaches this element. Applicants cannot agree. Again, during examination, “when an element is claimed using language falling under the scope of 35 U.S.C. 112, 6th paragraph . . . *the specification must be consulted to determine the structure, material, or acts corresponding to the function recited in the claim.*” *In re Donaldson*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994), MPEP § 2111.01(I) (emphasis added). Applicants’ specification describes a “test signal” as an output signal suitable for stimulating filters, amplifiers, and other devices-under-test in order to observe their frequency response with an RF measurement instrument. (Page 1, lines 15-18) Neither Miller nor von der Embse nor their combination teaches or suggests such a “test signal.”

For these reasons, neither Miller nor von der Embse nor their combination teaches or suggests all the elements of claim 1. Thus, claim 1 is not rendered obvious by a combination of Miller and von der Embse, and therefore Applicants request that the rejection of claim 1 under 35 U.S.C. § 103(a) be withdrawn.

Claims 2-5 are patentable because they depend from claim 1, which is patentable as discussed above. Accordingly, Applicants request that the rejection of claims 2-5 under 35 U.S.C. § 103(a) be withdrawn.

Claim 14 is patentable for all the reasons discussed above in regard to claim 1. Accordingly, Applicants request that the rejection of claim 14 under 35 U.S.C. § 103(a) be withdrawn.

Claims 15 is patentable because it depends from claim 14, which is patentable as discussed above. Accordingly, Applicants request that the rejection of claim 15 under 35 U.S.C. § 103(a) be withdrawn.

Objection to Claims 6-13

The Examiner objected to claims 6-13 but indicated that they would be allowable if re-written into independent form. Claims 6-13 are allowable in their present form because they depend from claim 1, which is patentable as discussed above. Therefore, Applicants request that the objection to claims 6-13 be withdrawn.

Conclusion

In view of the foregoing remarks, allowance of claims 1-15 is urged, and such action and the issuance of this case are requested.

Respectfully submitted,

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